

Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b). (This is a GIL).

March 16, 2000

Dear Xxxxx:

This letter is in response to your letter to PERSON dated January 3, 2000, which PERSON forwarded to us. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

The purpose of this letter is to update information received from your department almost two years ago. Our company has created software for the optical storage, validation and maintenance of resale certificates, exemption certificates and direct payment permits. The software includes detailed help and information on a certificate by certificate basis. A questionnaire was sent to you in an effort to gather helpful information to assist the taxpayer in complying with your state regulations. Again we would like to ask for your assistance.

Enclosed is the result of our latest research, which incorporates the information contained in your earlier response. Attached are the help screens for your state and the table for all the certificates that we know of for your state. At this time I would like to ask if you would please do the following:

1. **HELP**—Please review the help screens and note any incorrect or changed information since the last information received. Please note that these help screens are intended to increase taxpayer compliance, by being legally correct, but easy to understand. Please pay special attention to the format of the permit number or numbers as our system validates for that exact permit number format. The other important aspect is when does a certificate become stale? Does the State have a recommended stale date?
2. **TABLES** We are requesting that you also review our table that contains information on each individual certificate in our system. These are all the certificates we were able to obtain. If a new certificate has been issued or an old certificate has been updated or changed and now has a new date, please let us know and send us a copy of the form so that we can update our system. Please pay special attention to the following items on the table:

- a) 'State Format Required'—Do State Regulations require that certain fields of information be provided on the certificate (yes) or (no), regardless of whether the form is provided by the state or self generated?
 - b) 'State Form Required'—Is the State Specific form required to be used (yes) or can a taxpayer use a generic or self-generated form (no)? If yes, we assume the blank State form can be photocopied, unless the answer to the question below is (yes).
 - c) 'State Issued Original Required'—Can only the state original form, not a photocopy of a blank State form may be used (yes). If a photocopy can be used, the answer will be no.
 - d) 'State Form Issue Date'—This is the date the certificates was issued by your department and appears on the form itself. If new certificates have been issued, or old certificates updated, please let me know.
3. **FORMS** Please review our forms if your state requires that forms be approved. We have graphically image your forms and imported them into our software. If there are any forms that you do not approve, please notify us. In addition, if there are any resale or exemption certificates that we have not provided copies of, please send these certificates to us so we can include them in our software.
4. **SIGNATURES** Our clients (large multistate retail clients) have been demanding a totally paperless process for exemption certificate. They want to be able to allow their customers fill out a certificate via a web site and submit it to their corporate tax department for retention via e-mail, or other electronic means. This would mean that an alternative to a 'live' signature be agreed to by the States. Would your State accept a PIN number, that would be associated with the sellers permit number, in lieu of a signature? My competitors are using a signature image, much like the United Parcel Service signatures. Is this acceptable? Are you currently allowing other alternatives to a 'live' signature, or have you an acceptable alternative?
5. **VALIDATION** We would also like to be able to set up a interface with your Department's permit number database. The exempt customer's names, address, and permit numbers would be stripped out of our system on a preagreed format and we could send them to your database via modem. If a permit number is incorrect, and/or the customer is not registered with the State (and another State's permit number is not acceptable,) an line error would be noted and sent back to our client via modem. We would not be breaching any confidentiality as we are giving you the information. All we need to know is if it is valid information or not. This way we could establish the exemption certificates as being valid before a significant amount of time elapses between acceptance and an audit.

6. **TELECOMMUNICATION SERVICES** – A number of large Telecom companies have asked us to develop a product specifically geared towards Telecom. Therefore we need to know the following:
- a). Does your state have a sales/use tax or and excise tax on Telecom services such as long distance calls, T-1 lines, and cellular service? Are there any others?
 - b). Does your state have a special resale or exemption certificate for these telecom services? For example if one of these large Telecom clients resold the long distance service to a small long distance company for resale, what certificate should they use? What if the sale was to a religious or charitable organization? What about the federal government?
 - c). Is there any information on Telecom services and the taking of a resale or exemption certificate that you would like us to include in our help? Does your state have Telecom audit specialists? Are certificates a major area for error in a Telecom audit?

If you would like us to correspond with you in the future via e-mail, please include your e-mail address.

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If you have any questions, please call me at #####. I greatly appreciate your help.

Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b), enclosed. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b), enclosed. A valid Certificate of Resale must contain the following:

- 1. A short statement from the purchaser that the items are being purchased for resale;
- 2. The seller's name and address;
- 3. The purchaser's name and address;
- 4. The purchaser's signature and date of signing;
- 5. A sufficient identification or description of the items purchased for resale; and
- 6. One of the following:

The purchaser's registration number with the Illinois Department of Revenue,

The purchaser's resale number issued by the Illinois Department of Revenue, or

A statement that the purchaser is an out-of-state purchaser who will sell only to purchasers located outside the State of Illinois

Pursuant to this regulation, one of the things that a valid Certificate of Resale must contain is the purchaser's signature. Exemption certificates have similar requirements set forth in the regulations. See, for example, 86 Ill. Adm. Code 130.305, Farm Machinery and Equipment, 86 Ill. Adm. Code 130.330, Manufacturing Machinery and Equipment and 86 Ill. Adm. Code 130.340, Rolling Stock. Some exemptions may require a signature to document the exemption, while others do not.

The Department is granted the authority to accept an electronic signature for any return or other Document that it accepts as long as it has promulgated a regulation allowing for the acceptance of the alternative signature. 20 ILCS 2505/39c-1a. Unfortunately, the Department has not adopted a rule allowing for an electronic signature on a Certificate of Resale or on an exemption certificate.

Please note, however, that the Illinois Retailers' Occupation Tax Act provides in regards to Certificates of Resale, as follows:

"Failure to present an active registration number or resale number and a certification to the seller that a sale is for resale creates a presumption that a sale is not for resale. This presumption may be rebutted by other evidence that all of the seller's sales are sales for resale or that a particular sale is a sale for resale." 35 ILCS 120/2c.

In light of this statutory language, electronic Certificates of Resale that contain electronic signatures in addition to the other information required by rule could constitute evidence that the particular sale is a sale for resale despite the fact that no actual written signature is provided. The risk run in accepting and providing such a certification is that an Illinois auditor is much more likely to go behind a Certificate of Resale which does not contain a written signature and require that more information be provided as evidence that the particular sale was, in fact, a sale for resale.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

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